

# **EXHIBIT D**

**Subject:** RE: 568: Motion to Compel MIT - redacted filing  
**Date:** Thursday, May 16, 2024 at 12:39:45 PM Eastern Daylight Time  
**From:** LIN, Daphne <Daphne.Lin@freshfields.com>  
**To:** Richard Schwartz <rschwartz@bm.net>, RYBNICEK, Jan (JRYB) <Jan.RYBNICEK@freshfields.com>  
**CC:** Robert E. Litan <rilitan@bm.net>, Ellen Noteware <enoteware@bm.net>, Robert Gilbert <rgilbert@gilbertlitigators.com>, Ted Normand <t\_normand@fnf.law>  
**Attachments:** image001.png, image002.png, image003.png, image004.png, image005.png, image006.png, image007.png

Hi Richard,

Thanks for reaching out. As an alternative, MIT proposes to provide Plaintiffs with redacted versions of the motion and exhibits that can be filed on the public docket tomorrow. These redactions would then be the subject of MIT's motion to seal. Let us know if Plaintiffs are amenable to that approach.

Best,  
Daphne

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**From:** Richard Schwartz <[rschwartz@bm.net](mailto:rschwartz@bm.net)>  
**Sent:** Wednesday, May 15, 2024 5:56 PM  
**To:** RYBNICEK, Jan (JRYB) <[Jan.RYBNICEK@freshfields.com](mailto:Jan.RYBNICEK@freshfields.com)>; LIN, Daphne <[Daphne.Lin@freshfields.com](mailto:Daphne.Lin@freshfields.com)>  
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**Subject:** 568: Motion to Compel MIT - redacted filing

Counsel for MIT:

Plaintiffs write regarding Judge Kennelly's Minute Order from earlier today (ECF No. 686). The Minute Order instructs Plaintiffs to "promptly" file a redacted version of Plaintiffs' Motion to Compel (ECF No. 685). Plaintiffs intend to comply with the Court's instruction to "promptly" file a redacted version, but are also mindful of MIT's request on Monday that Plaintiffs maintain the Motion to Compel under seal and also understand that the Minute Order provides MIT with a 5/20 to file a motion to seal.

Plaintiffs suggest that MIT and Plaintiffs jointly seek clarification from the Court and inquire whether Plaintiffs may wait to file a redacted version until after the Court has resolved any forthcoming motion to seal. Would MIT agree to a joint letter seeking clarification? Below is a proposed draft.

Dear Judge Kennelly:

Plaintiffs and Defendant MIT jointly seek clarification of the Court's Minute Entry (ECF No. 686) ("Minute Order") regarding Plaintiffs' filing of a Motion to Compel MIT under seal (ECF No. 685) (the "Motion to Compel"). The Minute Entry permits MIT to move to seal the Motion to Compel by May 20, 2024 with a point-by-point justification, which the Plaintiffs are likely to oppose in substantial part. However, the Minute Order also instructs Plaintiffs to "promptly"

file a redacted version of the Motion to Compel on the public docket. Plaintiffs and Defendant MIT respectfully ask the Court to clarify that Plaintiffs are to wait until after the Court resolves any motion to seal before filing a public version of the Motion to Compel.

Please provide a response by tomorrow (Thursday 5/16) at noon (CT).

Regards,  
Richard Schwartz

**Richard Schwartz** / Senior Counsel



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